

DCC
BP
PP
PSI
BK
OK

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

STATE OF DELAWARE

VS

SHERMAN A. CARTER

DOB: 08/15/50
CASE NO.: 303X6881DI
SBI NO.:

CR.A. NO. IN93090851

SENTENCING ORDER

ORIGINAL CHARGE: POSSESSION OF
A DEADLY WEAPON BY A PERSON
PROHIBITED

TIS

ORDER

NOW THIS ~~4TH DAY OF AUGUST, 1994~~ IT IS THE ORDER OF THE COURT THAT:

THE DEFENDANT IS ADJUDGED GUILTY OF THE OFFENSE CHARGED.

THE DEFENDANT IS TO PAY THE COSTS OF PROSECUTION.

EFFECTIVE SEPTEMBER 4, 1993 THE DEFENDANT IS PLACED IN THE CUSTODY OF THE DEPARTMENT OF CORRECTION AT SUPERVISION LEVEL 5 FOR A PERIOD OF 3 YEARS, INCLUDING CREDIT FOR ANY TIME PREVIOUSLY SERVED.

IF THE DEFENDANT IS PRESENTLY SERVING ANOTHER SENTENCE, THAT SENTENCE SHALL BE SUSPENDED UNTIL COMPLETION OF THIS SENTENCE.

AFTER SERVING 1 YEAR, THIS SENTENCE IS SUSPENDED FOR 2 YEARS AT LEVEL 4, INPATIENT DRUG TREATMENT PROGRAM.

UPON SUCCESSFUL COMPLETION OF LEVEL 4 INPATIENT TREATMENT PROGRAM, THIS SENTENCE IS SUSPENDED FOR THE BALANCE AT LEVEL 3.

THE DEFENDANT IS TO BE HELD AT SUPERVISION LEVEL 5 UNTIL SPACE IS AVAILABLE AT LEVEL 4.

TOTAL RESTITUTION ORDERED	\$ *****.00
TOTAL VICT. COMP. ORDERED	\$ *****72.00
TOTAL DRUG REHAB. ORDERED	\$ *****30.00
TOTAL FINES ORDERED	\$ *****400.00
TOTAL COSTS ORDERED	\$ *****227.80

TOTAL FINANCIAL ORDER \$ *****729.80

PROHIBITION

94 AUG 24 P3:04

FILED

SENTAC FORM NO. S-3
KS

PAGE 1 OF 4

PLAINTIFF'S
EXHIBIT NO. 1

Amel #4 to follow

ORIGINAL CHARGE: CARRYING A CONCEALED
DEADLY WEAPON

NAME: SHERMAN A. CARTER
303X6881DI

DOB: 08/15/50

TIS

AS TO CR.A. NO. ~~IN93090849~~ IT IS THE ORDER OF THE COURT THAT:

THE DEFENDANT IS ADJUDGED GUILTY OF THE OFFENSE CHARGED.

THE DEFENDANT IS TO PAY THE COSTS OF PROSECUTION.

THE DEFENDANT IS TO PAY A FINE IN THE AMOUNT OF \$200.00 PLUS
AN EIGHTEEN PERCENT SURCHARGE FOR THE "VICTIM COMPENSATION FUND".

THE DEFENDANT IS PLACED IN THE CUSTODY OF THE DEPARTMENT OF
CORRECTION AT SUPERVISION ~~LEVEL 1~~ FOR A PERIOD OF ~~2~~ YEARS.

THE NON-INCARCERATIVE PORTION OF THIS SENTENCE SHALL BE SERVED
CONSECUTIVELY TO THE NON-INCARCERATIVE PORTION OF THE SENTENCE
IMPOSED IN CR.A. NO. IN93090851.

9.9.94
see
amended
order suspending
for level 2.
D

PROHONOLAR

94 AUG 24 P 3:04

FILED

ORIGINAL CHARGE: ~~POSSESSION~~ COCAINE

NAME: SHERMAN A. CARTER
303X6881DI

DOB: 08/15/50

TIS

AS TO CR.A. NO. IN93090850 IT IS THE ORDER OF THE COURT THAT:

THE DEFENDANT IS ADJUDGED GUILTY OF THE OFFENSE CHARGED.

THE DEFENDANT IS TO PAY THE COSTS OF PROSECUTION.

THE DEFENDANT IS TO PAY A FINE IN THE AMOUNT OF \$200.00 PLUS AN EIGHTEEN PERCENT SURCHARGE FOR THE "VICTIM COMPENSATION FUND" AND A FIFTEEN PERCENT (15%) SURCHARGE FOR THE "SUBSTANCE ABUSE REHABILITATION, TREATMENT, EDUCATION AND PREVENTION FUND".

THE DEFENDANT IS PLACED IN THE CUSTODY OF THE DEPARTMENT OF CORRECTION AT SUPERVISION ~~LEVEL 5~~ FOR A PERIOD OF 3 YEARS.

THIS SENTENCE IS SUSPENDED FOR 3 YEARS AT LEVEL 2.

THE NON-INCARCERATIVE PORTION OF THIS SENTENCE SHALL BE SERVED CONSECUTIVELY TO THE NON-INCARCERATIVE PORTION OF THE SENTENCE IMPOSED IN CR.A. NO. IN93090849.

PROHOM0116

94 MAY 24 P3:04

FILED

NAME: SHERMAN A. CARTER

DOB: 08/15/50

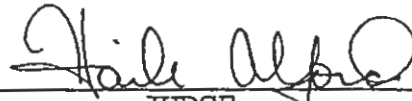
AS TO ALL CHARGES THE FOLLOWING SPECIAL CONDITIONS OF SUPERVISION
SHALL APPLY:

THE DEFENDANT SHALL:

~~PAY THE SURCHARGES, COSTS AND FINES ORDERED DURING THE
PROBATIONARY PERIOD.~~

BE EVALUATED FOR SUBSTANCE ABUSE AND FOLLOW ANY DIRECTIONS FOR
COUNSELING, TESTING OR TREATMENT MADE BY THE PROBATION OFFICER.

FOLLOW TREATMENT RECOMMENDATIONS OF EVALUATOR AND/OR PROBATION
OFFICER.



JUDGE
HAILE L. ALFORD

FILED
94 AUG 24 P 3:04
PROBATIONARY

DCC
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PSI
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OK

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

State of Delaware

v.

Sherman A. Carter
DOB: 08/15/50
Def. ID #303X6881DI

Cr.A. No. IN93-09-0851,
IN93-09-0849

* Booked as a fugitive
11.18.94. Must serve
balance of;
Level 4 OR
1 year '8 months 23 days

CORRECTION AND AMENDMENT OF SENTENCING ORDER.

Now this 2nd day of September, 1994, it is the Order of the Court that the Sentencing Order of August 4, 1994 is hereby modified and amended as set forth below:

IN93-09-0851

After serving 1 year, this sentence is suspended for 2 years at Level 4, in-patient drug treatment program. This sentence shall be subject to Sentac Policy #28.

IN93-09-0849

This sentence is suspended for 2 years at Level 2.

Special Condition to All Charges:

Should the Defendant return to the custody of the Dept. of Corrections in the State of Pennsylvania to complete any imposed sentence, upon release from such custody, Defendant is to return to the State of Delaware to successfully complete the terms of conditions of any open period of probation. Should Defendant fail to do so, a substantial period of incarceration shall be reimposed.

In all other respects, the Sentencing Order of August 4, 1994 shall remain the same.

Level 5
9.4.93
+ 1 yr.
9.3.94
- 24 dyp.
8.10.94

Level 4
8.10.94
+ 2 yr.
8.9.96
- 30 dyp.
5.29.96

Hale Alfors
00208
PLAINTIFF'S
EXHIBIT NO 2

FILED PROTHONOTAR
94 SEP -2 P4:32

4/3/98

My name is Sherman C. Carter #102896. I was referred to N.E.T. Counseling by my Supervised Custody officer Mike Ewanko for a evaluation in October of last year. I am now being held due to a court order that has me ordered to a level 5 treatment program.

I however have been evaluated by treatment specialist on more than one occasion and I am aware of no recommendation that will support the element of residential treatment. I am requesting that you provide me with information that should be in my institution record as to the results of the October evaluation. If for whatever reason you feel that I have no right to this information, I would be grateful if you would inform me immediately so that I can take other steps.

Respectfully
Sherman C. Carter

Doem II

PLAINTIFF'S
EXHIBIT NO. 3Write to
the Judge

**MULTI-PURPOSE CRIMINAL JUSTICE FACILITY
COUNSELOR SERVICES REQUEST FORM**

DATE: 4/12/98 COUNSELOR: _____

NAME: SHERMAN A CARP FBI# 102896 HOUSING UNIT DM II

LEVEL IV OR V (CIRCLE ONE)

LIST CURRENT OFFENSE(S), SEX RELATED OFFENSE(S) OPEN CHARGE(S), DETAINER
AND ANY ESCAPE(S).
V.O.P.

LENGTH OF SENTENCE: 2 yrs.
COURT ORDERED PROGRAM: yes

CHECK AND SPECIFY THE APPROPRIATE INFORMATION BELOW. ALL
REQUESTS TO YOUR COUNSELOR AND TO THE COUNSELOR
SUPERVISOR MUST BE SUBMITTED ON THIS FORM. PLEASE MAKE ALL
REQUESTS BRIEF AS LENGTHY RESPONSES MAY NOT RECEIVE
IMMEDIATE ATTENTION.

- ☐ REQUEST FOR CLASSIFICATION ACTION
☐ CLASSIFICATION INFORMATION
☐ PROGRAM PARTICIPATION (PROGRAMS, WORK, EDUCATION)
☒ INDIVIDUAL COUNSELING (MENTAL HEALTH)
☐ HOUSING ASSIGNMENT CONCERNS
☐ OTHER (SPECIFY): _____

PLEASE PRINT ALL INFORMATION

~~SENT TO COUNSELOR~~
REQUEST FOR
DIAGNOSTIC
EVALUATION

DO NOT WRITE BELOW THIS LINE
FOR COUNSELOR USE ONLY

+++++
COUNSELOR RESPONSE: _____

DEPENDING ON THE INFORMATION REQUESTED, YOU MAY OR MAY
NOT SEE YOUR COUNSELOR. A RESPONSE MAY BE MAILED TO YOU OR
HANDLED BY THE APPROPRIATE CORRECTIONAL STAFF. ALL
RESPONSES WILL BE HANDLED ACCORDINGLY.

NEVER ANSWERED

PLAINTIFF'S
EXHIBIT NO. 4

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

In the Matter of)
)
MARGARET T. LESLIE,) C. A. No. 98M-04-035
) Habeas Corpus Application
Petitioner.)
)

ORDER

This 6th day of May, 1998, upon consideration of the Petitioner's motion for Writ of Habeas Corpus it appears that:

1. The Petitioner seeks to be released because she has been incarcerated for 75 days for an unclassified misdemeanor.
2. On December 3, 1997, the Petitioner plead guilty to Offensive Touching in Family Court. Pursuant to 11 Del. C. §601, Offensive Touching is an unclassified misdemeanor. §601 specifies no sentence for this offense.
3. On January 28, 1998, the Petitioner was sentenced to thirty (30) days at Level V, an unspecified period at Level IV (Passageways) and eighteen (18) months at Level III.
4. 11 Del. C. §4206 (c) provides that "the sentence for an unclassified

misdemeanor shall be a definite sentence fixed by the court in accordance with the sentence specified in the law defining the offense. If no sentence is specified in such law, the sentence may include up to 30 days incarceration at Level V and such fine up to \$575, restitution or other conditions the court deems appropriate."

5. Therefore, the Petitioner cannot be sentenced for a period longer than that allowed by statute and is entitled to the relief sought.

Based on the foregoing, it is the order of this Court that the Petitioner be released from custody.

IT IS SO ORDERED.



Toliver, Judge

cc: Prothonotary (original)
P. Bradford deLeeuw, Esquire
Clerk of Family Court

TO: THE RECORDS DEPT.
D.C.C.

I AM ENCLOSING COPIES OF TWO SENTENCING ORDERS AS TO THE SENTENCE FOR WHICH I AM NOW INCARCERATED. AS TO THE ORDER DATED SEP 16, 1997, I WAS RETURNED TO GANDERHILL ON THE DATE OF JUNE 27, 1997 AND RELEASED ON SEPTEMBER 17, 1997. AS TO THE ORDER DATED DECEMBER 16TH, I WAS RETURNED TO GANDERHILL ON DECEMBER 1ST. IT SHOULD BE CLEAR THAT I HAVE SERVED ALMOST TEN MONTHS, ON THE SENTENCE TO DATE. I WOULD APPRECIATE BEING PROVIDED A STATUS SHEET THAT REFLECTS MY SHORT AND LONG TERM RELEASE DATES

THANK YOU IN ADVANCE

Shelton A. Carter #102896

D-W

You violated your probation
12/1/97. You were sentenced again
on 12/16/97. We can't give you
the other credit time unless
the Judge orders this. You should
write to the Judge.

PS

PLAINTIFF'S
EXHIBIT NO. 6

Westlaw.

718 A.2d 526

Page 1

718 A.2d 526, 1998 WL 700170 (Del.Supr.)
(Cite as: 718 A.2d 526)

C

718 A.2d 526, 1998 WL 700170 (Del.Supr.)
(The decision of the Court is referenced in the
Atlantic Reporter in a 'Table of Decisions Without
Published Opinions.')

Supreme Court of Delaware.

Darrell D. COLLICK, Defendant Below-Appellant,
v.

STATE of Delaware, Plaintiff Below-Appellee.
No. 212, 1998.

Submitted July 9, 1998.

Decided Aug. 10, 1998.

Court Below: Superior Court of the State of
Delaware, in and for Kent County, Cr.A. No.
VK93-06-0412.

Before WALSH , HOLLAND , and HARTNETT,
Justices.

ORDER

*1 This 10th day of August 1998, upon
consideration of the appellant's opening brief and
the State of Delaware's motion to affirm, it appears
to the Court that:

(1) The appellant, Darrell D. Collick ("Collick"),
filed this appeal from an order of the Superior Court
denying his fourth motion for correction of sentence
pursuant to Superior Court Criminal Rule 35(a).
The State of Delaware ("State") has moved to
affirm the judgment of the Superior Court on the
ground that it is manifest on the face of Collick's
opening brief that the appeal is without merit.Supr.
Ct. R. 25(a).

(2) The record reflects that Collick pleaded guilty in
May 1994 to one count of delivery of cocaine in
violation of 16 Del. C. § 4751. The Superior Court
sentenced Collick to three years at Level V
imprisonment, which was to be suspended after

serving one year for six months at Level III
probation followed by eighteen months at Level II
probation.

(3) In January 1997, a *capias* was issued for
Collick's arrest due to an alleged violation of his
probation. In November 1997, the Superior Court
adjudged Collick guilty of violating probation and
resentenced him on his delivery of cocaine
conviction to one year at Level V imprisonment,
suspended after six months for six months at a
Level IV halfway house followed by six months at
Level III probation. The Superior Court further
ordered that Collick be held at Level V
incarceration pending space availability at a Level
IV facility. Collick did not appeal from his
probation violation sentence. Instead, he filed
several unsuccessful motions seeking to reduce or
correct his sentence. Following the Superior Court's
denial of his fourth motion to correct his sentence,
this appeal ensued.

(4) In his opening brief on appeal, Collick raises
only one issue. He contends that the Superior
Court's condition that he be held at Level V
incarceration pending space availability at a Level
IV halfway house violated his rights under the Fifth,
Eighth, and Fourteenth Amendments of the United
States Constitution. Collick's position is without
merit.

(5) It is well settled that, upon finding a violation of
probation, the Superior Court is authorized to
reimpose any previously suspended prison term.
Ingram v. State, Del.Supr., 567 A.2d 868, 869
(1989) (citing 11 Del. C. § 4334(c)). In this case,
the Superior Court originally sentenced Collick to a
total of three years at Level V incarceration,
suspended after one year for decreasing levels of
supervision. Accordingly, upon finding that Collick
had violated his probation, the Superior Court could
have reimposed a three year Level V prison term,
giving credit for all time previously spent at Level
V, without suspending any portion of that term. The

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7

718 A.2d 526

Page 2

718 A.2d 526, 1998 WL 700170 (Del.Supr.)
(Cite as: 718 A.2d 526)

Superior Court, however, in its discretion reimposed only a one year Level V term, which was to be suspended after serving six months for six months at Level IV followed by six months at Level III probation. The Superior Court's condition that Collick be held at Level V pending space availability in a Level IV facility did not exceed any penalty that the Superior Court was authorized to impose. Accordingly, Collick's claim that the sentence violates his constitutional rights is without merit.

*2 (6) It is manifest on the face of Collick's opening brief that his appeal is without merit because the issues presented on appeal clearly are controlled by settled Delaware law and, to the extent that judicial discretion is implicated, clearly there was no abuse of discretion.

NOW, THEREFORE, IT IS ORDERED that, pursuant to Supreme Court Rule 25(a), the State's motion to affirm is GRANTED. The judgment of the Superior Court is hereby AFFIRMED.

Del.Supr., 1998.
Collick v. State
718 A.2d 526, 1998 WL 700170 (Del.Supr.)

END OF DOCUMENT

Appendix E

DELAWARE CORRECTIONAL CENTER — MEMORANDUM

TO: Inmate Sharon Carter ^{C-4} SBI# 102896 Housing Unit ✓
 VIA: Counselor Franch
 FROM: I.B.C.C.
 DATE: 10/1/98
 RE: Classification Results

Your M.D.T. has recommended you for the following: _____

Law Library Clerk

The I.B.C.C.'s decision is to:

✓ Approve 90 Day Probation for job.
 _____ Not Approve _____
 _____ Defer _____
 _____ Recommend _____
 _____ Not Recommend _____

BECAUSE:

_____ Lack of program participation	_____ Time remaining on sentence
_____ Pending disciplinary action	_____ Prior failure under supervision
_____ Gradual phasing indicated	_____ Poor institutional adjustment
_____ Open charges	_____ Serious nature of offense
_____ Prior criminal history	
_____ Failure to follow your treatment plan in that you _____	

_____ You present a current and continuous danger to the safety of staff, other inmates, or the good order of the Institution. Explanation: _____

OTHER: Rev 3/99. Must continue in program.

ADDITIONAL COMMENTS:

_____ Develop/continue treatment plan with counselor

You will be expected to address the following: _____

PLAINTIFF'S
EXHIBIT NO. 8

Copy to: Classification
 Inmate
 Institution File

Form #456 (3 Part NCR) 11/11/97
 Revised 11/97

**IN THE SUPERIOR COURT FOR THE STATE OF DELAWARE
 IN AND FOR NEW CASTLE COUNTY**

WILLIAM C. BOYCE

Petitioner.

v.

STATE OF DELAWARE

Post-It™ brand fax transmittal memo 7671		# of pages > 3
To: P. Braddock deLeon	From: Brenda Smith	
Co: Fam. Ct. PD's office	Co: St. Alfred's Chambers	
Dept.	Phone #	
Fax # 577-2308	Fax #	

**C.A. No.: 98M-10-061-HLA
 HABEAS CORPUS APPLICATION**

ORDER

This 4th day of November, 1998, upon consideration of the Petitioner's motion for Writ of Habeas Corpus, it appears to the Court that:

(1) Petitioner seeks to be released because he has allegedly served the statutory maximum sentence for the offense he was incarcerated.

(2) On October 26, 1996, Appellant was adjudicated guilty of the charge of Offensive Touching in Family Court. Pursuant to 11 DEL. C. § 601, Offensive Touching is an unclassified misdemeanor. § 601 specifies no sentence for this offense.

(3) On January 10, 1997, Petitioner was sentenced to thirty (30) days at Level V and suspended for one (1) year of Level II probation.

Boyce v. State
C.A. No.: 98M-10-061-HLA
November 4, 1998
Page 2

(4) On January 8, 1998, Petitioner was found to be in violation of probation and was sentenced to 30 days at Level V and probation at Supervision Level III for a period of six months. This Court has been advised that Petitioner completed his sentence on February 4, 1998.

(5) On September 28, 1998, Petitioner was again found to be in violation of his probation and was sentenced to 30 days at Level V, of which 30 days was suspended; three (3) months at Level IV "to be held at Supervision Level V until space is available at Level IV."

(6) Petitioner is currently serving his violation of probation sentence at the Plumber Center, a Level IV facility. Petitioner has served approximately twenty two months of probation in addition to serving the statutory maximum period of incarceration for committing an unclassified misdemeanor.

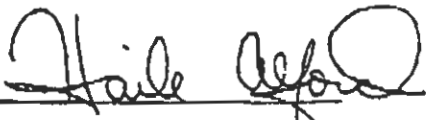
(7) 11 DEL. C. § 4206 provides that "[t]he sentence for an unclassified misdemeanor shall be a definite sentence fixed by the court in accordance with the sentence specified in the law defining the offense. If no sentence is specified in such law, the sentence may include up to 30 days incarceration at Level V and such fine up to \$575, restitution or other conditions as the court deems appropriate."

Boyce v. State
C.A. No.: 98M-10-061-HLA
November 4, 1998
Page 3

(8) It is clear to the Court that Petitioner has been sentenced for a period longer than that allowed by 11 DEL. C. § 4206. Petitioner is therefore entitled to the relief sought.

Based on the foregoing, it is the order of this Court that the Petitioner be released from custody.

IT IS SO ORDERED.


Haile Alford, Judge

cc: Prothonotary (original)
P. Bradford deLeeuw, Esq.
Clerk of the Family Court

DELAWARE CORRECTIONAL CENTER — MEMORANDUM

TO: Inmate Sherman Carter, SBI# 102694, Housing Unit ✓
 VIA: Counselor Fran
 FROM: I.B.C.C.
 DATE: 12/17/98
 RE: Classification Results

Your M.D.T. has recommended you for the following:

Rescind Min/HC - V Bldg - Lumber
Min/HC - T 2

The I.B.C.C.'s decision is to:

✓ Approve Also approve Rescind Law Library Clerk job.
 Not Approve _____
 Defer _____
 Recommend _____
 Not Recommend _____

BECAUSE:

<input type="checkbox"/> Lack of program participation	<input type="checkbox"/> Time remaining on sentence
<input type="checkbox"/> Pending disciplinary action	<input type="checkbox"/> Prior failure under supervision
<input type="checkbox"/> Gradual phasing indicated	<input type="checkbox"/> Poor institutional adjustment
<input type="checkbox"/> Open charges	<input type="checkbox"/> Serious nature of offense
<input type="checkbox"/> Prior criminal history	
<input type="checkbox"/> Failure to follow your treatment plan in that you _____	

☐ You present a current and continuous danger to the safety of staff, other inmates, or the good order of the Institution. Explanation: _____

OTHER: None

ADDITIONAL COMMENTS:

☐ Develop/continue treatment plan with counselor

You will be expected to address the following:

Directed
Failure to follow FBC of 10/1/98

Copy to: Classification
 Inmate
 Institution File

Form #456 (3 Part NCR)
 Revised 11/97

PLAINTIFF'S
 EXHIBIT NO. 10